

ALCOHOL POLICIES, RULES, and REGULATIONS



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The Board of Selectmen, the alcohol licensing authority for the Town of Rockport, sets forth the expectations of the residents regarding the process and standards for issuing alcoholic beverage licenses.

STATEMENT OF PURPOSE AND FINDINGS

As authorized by State law, the Town will issue licenses to sell alcoholic beverages to qualified individuals or businesses that have an acceptable plan of operation. In addition to demonstrated character, successful applicants will have satisfied all zoning, tax, septic, and other public health and safety requirements as a precondition to the issuance of a license to sell alcohol.

- As approved by the voters at the Town election of 2005, the Board of Selectmen is authorized to grant up to ten year-round licenses and up to twenty seasonal licenses for the sale of all alcoholic beverages to be consumed on the premises by patrons of restaurants, or for a special license under section 14 of Chapter 138 of the General Laws, or licenses for the sale of all alcoholic beverages to be consumed on the premises by those attending a function, social gathering or conference in such establishments including but not limited to inns and hotels as deemed appropriate by the Board. The Town, through the Board of Selectmen, is also authorized to issue Grocery Store not to be consumed on premises alcohol licenses pursuant to Chapter 308 of the Acts of 2012 and Gourmet/Specialty Store not to be consumed on the premises alcohol licenses as defined by Chapter XX of the Acts of 2019 and these Regulations.

For the purpose of these regulations, a gourmet or specialty store is defined as a high-end, organic, health, or fine food store that delivers unique food items including but not limited to biscuits, jams, preserves, spices, baked goods and other similar items on a limited scale as determined by the Board of Selectmen. Other related household items may also appear for sale. Food and beverages sold shall not be consumed on premises.

Such a gourmet or specialty store shall not be a convenience store or supermarket grocery store as such terms are reasonable understood or as defined by Massachusetts General Laws or Regulations. An establishment that sells gasoline, lottery tickets or tobacco or vaping products shall not be eligible for these licenses; nor shall such store offer the full range of grocery items available in a full-service grocery store.

- Food service shall be available at all times when alcohol is being served.
- Prior to the issuance of a license or a renewal of a license, an applicant must submit certificates of inspection from the building, fire and health inspectors.
- These rules are supplementary to any statutory requirements of the Commonwealth of Massachusetts and to the rules of the Commonwealth's Alcoholic Beverages Control Commission. Prior to making any changes to these regulations, the Board of Selectmen will hold a Public Hearing that has been advertised in the local paper at least two weeks in advance of the date of the hearing.

Filing of Applications

All license application forms, including but not limited to: the Alcoholic Beverages Control Commission Application for Alcoholic Beverage License for Retail Sale; forms for financing; criminal record release form, and the Department of Revenue release form, must be complete before being processed. A complete list of the forms and fees required is available at the office of the Board of Selectmen. Complete application material must be provided for each individual whose name appears on the application. Application filing fees must be paid prior to processing. All such fees shall be paid by certified check or money order. Filing fees are not refundable once the Board of Selectmen accepts an application. If a license is granted, an annual license fee shall be payable immediately. Fees are not refundable.

APPLICATION PROCESS – GENERAL REQUIREMENTS

Applicants

The Board of Selectmen shall consider all such applications for those licenses in an open process.

Application Processing Fee

An application processing fee of \$300 is to be paid when a new application is filed. Check must be made payable to “Town of Rockport”.

Public Hearing

The Board of Selectmen will hold a public hearing on new license applications.

Standard for Evaluation of Applications

The Board of Selectmen shall not approve any application for a license unless it determines that such application and its accompanying plan of operation and other documentation present clear and convincing evidence that it is in the public interest of the residents of the Town.

Notification of Abutters

The applicant will be required to comply with the appropriate provision of M.G.L. c 138 relative to notification of abutters. The Board reserves the right to order further notice requirements at its discretion. In accordance with M.G.L. c. 138, §16C, no license shall be issued for premises located within five hundred (500) feet of a school or church unless the Board of Selectmen determine, in writing and after hearing, that the operation of the licensed business on the premises will not be detrimental to the education or spiritual activities of said school or church. The Board of Selectmen may impose conditions on the granting of a license to ensure that the operation of a licensed business at the premises will not be so detrimental.

Plan of Operation

Every applicant shall file as part of the application a plan of operation setting forth in detail a description of the type of facility existing or proposed and the applicant’s experience or qualifications to operate such a business; a proposed opening date; any zoning, traffic or public health or safety issues presented by the application or raised by the Board of Selectmen or other Town boards; and the applicant’s plans to address or mitigate such issues. Applicants shall also file with the plan of operation a menu or proposed menu, and the manner in which such food shall be served and a floor scaled plan of the premises where the facility will operate.

Duration of License

All licenses granted are valid until December 31 of each year and must be renewed prior to that date. It is the responsibility of the licensee to file a renewal application at least 45 days prior to expiration of the existing license. Seasonal licenses are effective April 1 to January 15 of the following year, or any portion thereof.

License Fee Schedule

The Town’s annual fees for sale of all alcoholic beverages licenses (seasonal or year-round) issued pursuant to these regulations shall be as follows:

Restaurant— \$1,500

Function (or Other) Establishment— \$1,500

Combination Restaurant & Function (or Other) Establishment— \$2,000

Annual renewal fee— same as above

Special License commonly known as a 1-day — \$ 100

The annual fee for sale of malt beverages and wine only licenses is \$1,000.

The license fee may be prorated for applications filed after January 1, by a vote of the Board of Selectmen. The board reserves the right to adjust the license fee from year to year.

License Application Rejections

If the Board of Selectmen rejects an applicant for a license, the Board shall not accept or consider a new application for such license for a period of six months.

Compliance with Laws, Regulations and Conditions

Licensees shall maintain their premises and operations in compliance with all applicable State and local building and sanitary codes, laws and regulations and all conditions attached to any license granted pursuant to these regulations. All taxes and charges owed the town must be paid in accordance with applicable law.

OPERATING RULES FOR LICENSES

Regulations Available

A licensee shall keep a copy of these rules and regulations on the premises at all times and make them available for inspection upon request by a member of the public or an agent of the Board of Selectmen.

Employee Awareness

A licensee is responsible for ensuring that all employees who work in the public areas of the premises read the rules and regulations of the licensing authority and comply with all rules, regulations and laws.

License Posted

A licensee shall post a copy of the license in a conspicuous place where it can be easily seen by the public and read without difficulty.

Other Permits

A licensee shall post all other licenses, permits and certificates affecting the premises in a conspicuous place. No such document shall be posted in such a way as to cover over any part of the license issued by the Board of Selectmen.

Admissions to the Premises

A licensee shall not permit any rule, policy, or action, express or implied, which makes any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sex, or ancestry, physical or mental disability, relative to the admission or treatment of persons from the general public or employees at the premises; provided, however, that such licensee may make rules regulating the admission of minors to the premises when such rules are not inconsistent

with other rules and regulations stated herein. No license holder shall require any patron to pay a cover charge of any kind.

Unruly Persons

A licensee shall refuse entrance to the premises to a person who appears to be intoxicated or unruly; and shall evict such a patron, except that in such a case the licensee should call the police and should offer assistance to an intoxicated person when possible.

Maximum Occupancy

A licensee shall not permit entrance to the premises by more persons than the maximum occupancy limit established by the Building Inspector.

Waiting Lines

If a licensee permits persons to wait in line for a table or a seat, it shall keep such persons in an orderly line without blocking aisles or exits.

No Locked Doors

A licensee shall not lock the front door of the premises until the last patron has exited.

Hours of Sales and Service of Alcohol in Restaurants

The hours during which sales or service of alcoholic beverages may be made by any licensee shall be from 11 a.m. to 11:30 p.m. (12:30 a.m. on New Year's Eve). The hours during which the sales of alcoholic beverages may be made are further limited to the hours of operation as designated on the common victualler's license and furthermore when the dining room is open and food service is available. All beverage/glasses/bottles or other containers must be removed from tables and the service bar area by 12 a.m. (1 a.m. on January 1).

INSURANCE

All licensees shall be required to provide to the Town a certificate of insurance providing coverage of fire, premises liability, and liquor liability in amounts acceptable to the Town Counsel.

RESTAURANT BAR AREAS

There shall be no bar at which alcohol is served to patrons except that which is located in a restaurant. . Food and alcoholic beverages may also be served at a bar by a certified bartender. The location of bars shall not be changed unless approved by the Board of Selectmen and unless an amended floor plan is submitted showing the proposed change.

PHYSICAL PREMISES

Floor Plan

The premises shall conform to a floor plan approved by the Board of Selectmen with regard to the layout of the facility including its tables, chairs, booths, toilet facilities, railing partitions, storage of alcohol and empty containers, and any other barriers. Any changes in the floor plan or any renovations of any kind shall not be made without notification and approval of the Board of Selectmen. The floor plan must be kept available on the site.

Cleanliness

All premises covered by the license shall be kept in a clean and sanitary condition.

Lighting

All public areas of the premises shall be lighted in a manner to assure the safety of patrons and to allow the agents of the Board of Selectmen to make observations without the need to identify themselves or seek assistance.

No Access to Private Areas

A licensee shall not allow the general public access to private areas of the premises approved by the Board of Selectmen for storage, office use, a kitchen or any other non-public use. Only the licensee and its employees shall be in these areas.

Restrooms

Every licensed facility must have toilet facilities on the premises and available to the patrons while the facility is open.

Exit Lighting

All exits from the premises shall be properly designated by lighted signs, "Exit" as same may be mandated by the Building Inspector or the Fire Department of the Town.

BUSINESS ARRANGEMENTS OF LICENSEES

Site Control

An applicant shall not obtain or renew a license unless it can demonstrate proof of a legal right to use the premises proposed for the term of the license. Such proof may include evidence of fee ownership, a lease, a management contract or a binding commitment for purchase or lease; provided, however, that all parties participating in such ownership, leasehold interest or management contract shall be made known to the Board of Selectmen and the terms of such agreements or contracts shall be fully disclosed to the Board of Selectmen. Failure to have the legal right to use and control the premises may result, after public hearing, in the revocation or non-renewal of the license.

Contracts

A licensee shall not hire any employee or contract for goods or services in any name other than its own, nor shall the licensee pay for any such employment, goods, or services by any means other than its own bank accounts standing in its own name. Cash transactions shall be recorded in a manner suitable for review by the Board of Selectmen. Such records shall be kept for a period of three years.

No Undisclosed Interests

A licensee shall not permit any undisclosed person or entity to have a direct or indirect financial or beneficial interest in the licensed business or to receive any revenue from the business.

No Undisclosed Principals

A licensee shall not permit any undisclosed person to work at the premises or to hold him or herself out as being in a position of authority unless such person is an owner, officer or salaried employee for whom payroll records are available. A licensee shall not pay an employee any percentage of the profits of the business or pay an employee in any manner other than by salary or hourly rate except upon approval of the Board of Selectmen.

No Percentage Arrangements

A licensee shall not pay any landlord or creditor a percentage of the profits of the business unless complete disclosure has been made to the Board of Selectmen and the Board's approval received.

No Subleases

A licensee shall not lease out or otherwise license any part of the premises or its food or beverage service without the prior approval of the Board of Selectmen.

No Concessions

A licensee shall not enter into an agreement with an independent contractor to provide beverages or food or management at the premises without the prior approval of the Board of Selectmen.

No Security Interest

A licensee shall not pledge any stock in the licensee, or grant any security interest in its license or the assets of the licensee without the approval of the Board of Selectmen pursuant to M.G.L. c.138, §15A. This includes kitchen equipment, furniture, or any other type of equipment.

Change in Manager

A licensee shall not change its manager until the Board of Selectmen and the Alcoholic Beverages Control Commission have both approved such change.

Opening Required

A licensee may not close its place of business or cease selling alcoholic beverages without first notifying the Board of Selectmen in writing before such closing or cessation and stating the reason therefore.

No Assignee Rights

An assignee or creditor who succeeds to the interest of a licensee may not conduct the business of licensee at the premises without the approval of the Board of Selectmen. A licensee shall immediately notify the Board of Selectmen when an assignee or creditor succeeds to its rights or when foreclosure or other legal proceedings are brought that affect the economic and financial rights and abilities of the licensee.

No Minimum Sales

A licensee shall not enter into an agreement or understanding which sets a minimum requirement for gross sales of alcoholic beverages at the premises.

Trade Name

A licensee shall not use any trade name, assumed name, or abbreviated name in connection with the licensed business unless the same appears on the license issued by the Board of Selectmen or unless written permission is first obtained from the Board. A licensee shall not use an unauthorized name on the books, records, stationery, or interior or exterior of the premises or for advertising purposes or telephone listing without written permission from the Board.

Financial Statement

The Board of Selectmen may determine whether the service of alcoholic beverages has become more than incidental to the service of food by any licensee. The Board may require a licensee to furnish an annual financial statement from the previous year done by a Certified Public Accountant indicating that food is being served proportionately more than alcoholic beverages. The license holder shall provide, annually, a Certificate of Condition and a Certificate of Good

Standing, as required by the Secretary of State for the Commonwealth of Massachusetts, to the Board of Selectmen.

Manager Present

At all times that the licensed premises are open for service of alcoholic beverages, the licensee shall have on the premises a manager or assistant manager who has successfully completed an alcoholic beverage server training program satisfactory to the Board of Selectmen.

Games of Chance

A licensee shall not operate nor permit any other person to operate a Keno or similar game at the licensed premises. Electronic games, mechanical games, arcade-type games and manual games of chance for reward or entertainment are specifically prohibited from all licensed premises.

Entertainment

A restaurant licensee may not permit any form of entertainment at the premises without first obtaining an entertainment license from the Board of Selectmen.

No Below Cost Sales

A licensee shall not sell alcoholic beverages for less than actual cost.

Prices

A restaurant licensee shall maintain a schedule of the prices charged for all drinks to be served and consumed on the premises. Such prices shall be effective for not less than one calendar week.

Take-out

Licenses will not be granted to establishments whose principal business activity is fast food, take out, or which have any drive-in aspect.

Prohibited Practices

A restaurant licensee or employee or agent shall not:

- Offer or deliver any free drinks to any person or group of persons;
- Deliver more than two drinks to one person at one time;
- Sell, offer to sell or deliver to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the general public;
- Sell, offer to sell or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
- Sell, offer to sell or deliver alcoholic beverages by the pitcher;
- Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

No Other Alcohol

A facility licensed to sell alcoholic beverages shall not permit alcoholic beverages to be brought onto the premises by patrons or employees under "bring your own bottle" arrangements or otherwise. A hotel licensed to sell alcoholic beverages shall not permit (a) employees to bring their own alcoholic beverages onto the licensed premises; and (b)

patrons to bring their own alcoholic beverages onto an area of the licensed premises while alcoholic beverage service is available in that area. Patrons shall not be permitted to consume their own alcoholic beverages in any common area of the licensed hotel prior to 11 a.m. or after 11:30 p.m.

Service to Minors Prohibited

A licensee shall be responsible for ensuring that minors are not served alcoholic beverages and are not drinking alcoholic beverages on the premises, whether served to them by an employee or handed to them by another patron.

Posting of Penalties

A licensee shall conspicuously post at the premises a current copy of the penalties for driving under the influence set forth in M.G.L. c.90 § 24. A photo of this and other required postings must be included with the licensee's annual renewal application.

No Removal of Alcoholic Beverages

A licensee shall not allow patrons or employees to leave the premises with alcoholic Beverages except as provided by ABCC regulations 204-2.18. (ABCC regulations issued pursuant to Chapter 33 of the Acts of 2006 allows a licensed restaurant or hotel dining room patron to remove one partially consumed bottle of wine that has been purchased with a meal. The bottle that is removed must be placed in a one-time-use tamper proof transparent bag with the meal receipt attached to the sealed bag)

Disturbances

When any noise, disturbance, misconduct, disorder, act or activity occurs in the premises, or in the area in front of or adjacent to the premises, or in any parking lot provided by the licensee for the use of its patrons, which in the judgment of the Board of Selectmen adversely affects the protection, health, welfare, safety or repose of the residents of the area in which the premises are located, or results in the premises becoming the focal point for police attention, the licensee shall be held in violation of the license and subject to proceedings for suspension, revocation or modification of the license.

ADVERTISING

There shall be no commercial advertising collateral, excluding products intended for consumption, placed on the exterior or visible from the exterior of any establishment.

Any licensed establishment may display its menu, as well as its beverage list on the exterior of the premises or on the inside of glass of a window of the premises, so long as the size of the menu and/or display complies with the Town bylaws. The use of the words "bar", "pub", "tavern" or the like, describing the type of establishment and not for advertising purposes, is at the discretion of the Board of Selectmen.

INSPECTIONS AND INVESTIGATIONS

Inspections

The premises shall be subject to inspection by the licensing authority or its duly authorized agents. A licensed premise may be subject to regular inspections by police or other authorized agents of the Board of Selectmen; any licensee found in violation of a law or Town regulation may be subject to suspension or revocation of the alcohol license. It shall be the responsibility of the licensee to ensure that procedures are in place to allow police and authorized agents of the Board of Selectmen immediate entrance into the premises any time employees are present.

Employees

The licensee shall maintain a current list of all employees and shall have it available at all times for inspection upon the request of an authorized agent of the Board of Selectmen.

Complaints

All complaints and reports shall continue in force until they have been reviewed and disposed of by the licensing authority.

STANDARDS OF CONDUCT ON THE PREMISES

No Employee Consumption

No manager or employee of a licensee shall consume any alcoholic beverages while on duty.

Illegal Activity

The licensee shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the premises. Such efforts shall include frequent monitoring of restrooms and other nonpublic areas of the premises.

Disruptive Patrons

Employees are to call the police to have patrons removed from the premises if they are being disruptive and refusing to leave voluntarily.

CAUSES FOR REVOCATION, SUSPENSION, AND MODIFICATION

A license may be modified, suspended, or revoked for any of the following causes:

Violations of Law

Violation by the licensee of any provision of the relevant General Laws of the Commonwealth, of the regulations of the Alcoholic Beverages Control Commission or of the regulations or by-laws of the Town.

Misrepresentation

Fraud, misrepresentation, false material statement, concealment or suppression of facts by the licensee in connection with an application for a license or other permit or for renewal thereof or in connection with an application for the renovation or alteration of the premises or in connection with any other petition affecting the rights of the licensee or in any interview or hearing held by the Board of Selectmen in connection with such petition, request, or application affecting the rights of the licensee;

Failure to Operate

Failure to operate or cessation of the sale of alcoholic beverages at the premises covered by the license for more than 30 days without approval of the Board of Selectmen;

Failure to Furnish Information

Failure or refusal of the licensee to furnish or disclose any information required by any provision of the General Laws or by any rule or regulation of the Alcoholic Beverages Control Commission or any rule or regulation of the Board of Selectmen.

PENALTY GUIDELINES

Penalties

A licensee who violates the applicable laws of the Commonwealth, regulations of the Alcoholic Beverage Control Commission and/or these regulations may be subject to a range of disciplinary measures, including warnings, license suspension or revocation. However, before the Board of Selectmen takes any such measures, the Licensee will be given written advanced notice of a scheduled hearing before the Board. Said notice shall include the specific alleged violation or violations and the Licensee's opportunity to explain any extenuating circumstances, to present their objections, and/or to argue their case demonstrating that no violation was committed.

PERMISSION TO CLOSE PREMISES REQUIRED

Notice

A licensee intending to close its place of business, or cease the sale of alcoholic beverages whether on a temporary or permanent basis, must notify the Board of Selectmen in writing before such closing stating the reason and length of such closing and obtain the Board of Selectmen's approval. Failure to provide such notice or obtain approval for such closing or cessation for more than 30 days may result in the suspension or revocation of the alcohol license.

Bankruptcy and Court Proceedings

The licensee shall immediately notify, in writing, the Board of Selectmen of any proceedings brought by or against the licensee under the bankruptcy laws or of any other court proceedings which may affect the status of the license.

MANAGEMENT AND SERVICE TRAINING

Manager Required

A licensee must appoint a manager by a properly authorized and executed delegation. The responsibilities of every licensee and its manager shall be as follows: to obey all statutes of the Commonwealth, rules of the Alcoholic Beverages Control Commission, Town by-laws, Rules and Regulations of the Board of Selectmen; to promptly notify the police of any disturbances or illegal activity on the premises of which he or she becomes aware.

Transfers Restricted

A licensee shall not change managers, officers or directors, sell or transfer corporate stock, pledge corporate stock or license as security, or accept a loan or credit from another licensee, without first obtaining the approval of the Board of Selectmen. No person or entity may have a direct or indirect beneficial interest in a license without first obtaining the approval of the Board of Selectmen.

Service Training

The licensee shall provide an employee training program on the proper procedures for verifying that patrons are at least 21 years of age and not intoxicated. A written description of such program, along with a written policy outlining the employees' responsibilities and the disciplinary measures which will be taken against any employee for violating said policy, shall be provided to the Board of Selectmen as part of the original or renewal application materials and maintained on the premises at all times. Each new employee who handles alcohol shall obtain server training within thirty (30) days of commencing employment.

Certification

The licensee shall maintain a signed certification of each employee who handles alcohol, indicating that the employee has received the described training and has reviewed and understands the written policy describing his or her responsibilities.

Retraining

Upon a finding by the Board of Selectmen of a violation of the laws or regulations concerning service of alcohol to a minor or intoxicated person, the employees involved in the violation who continue to be employed by the licensee shall be retrained forthwith and receive a new server training certification prior to serving any alcohol.

Approval Program

The training and certification shall be pursuant to a training program approved by the Board of Selectmen (e.g. TIPS or other such program).

PRIVATE FUNCTIONS

For the purpose of this regulation, the term “private function” shall be an event or gathering in an area of a licensed establishment where the general public is excluded. Private functions where alcohol is to be served may be held in a portion of the licensed facility. The area for the private function must be unavailable to the general public while the private function is taking place and no alcohol may be served to any member of the general public. Notwithstanding any other rule or regulation herein:

1. Food service is required at a private function where alcoholic beverages are to be served. For the purpose of this regulation, the term “food service” shall include but not be limited to the preparing, sale, service, dispensing, distribution, and/or delivery of food which shall include hors d’oeuvres, sandwiches, soups, prepared foods, salads or desserts.
2. No licensee or employee or agent of a licensee shall deliver more than two drinks to one person at one time (204 CMR 4.03(1) (b)).
3. Service of alcoholic beverages at a private function shall not begin prior to 11 am; “last call” shall not be after 11:30 p.m.; at 12 a.m. all tables, counters, and bars shall be immediately cleared of all glasses, bottles, and containers of alcoholic beverages; and, there shall be no drink consumption permitted after 11:30 p.m. However, notwithstanding the foregoing, on New Year’s Eve “last call” may be at 12:30 a.m.; at 1 a.m. all tables, counters, and bars shall be immediately cleared of all glasses, bottles, and containers of alcoholic beverages; and, there shall be no drink consumption permitted after 1 a.m.
4. Television use is permitted in function rooms and/or at private functions.

SPECIAL LICENSES (Commonly known as One-Day Licenses)

The Board of Selectmen may grant a one-day license to a non-profit entity or certain degree-granting educational institutions pursuant to M.G.L. c.138 §14. Notwithstanding any other rule or regulation herein:

1. Food service is required at a one-day function where alcoholic beverages are to be served. For the purpose of this regulation, the term “food service” shall include but not be limited to the preparing, sale, service, dispensing, distribution, and/or delivery of food which shall include hors d’oeuvres, sandwiches, soups, prepared foods, salads or desserts.

2. No licensee or employee or agent of a licensee shall deliver more than two drinks to one person at one time (204 CMR 4.03(1) (b)).
3. Service of alcoholic beverages at a one-day function shall not begin prior to 11 a.m.; “last call” shall not be after 11:00 p.m.; at 11:30 p.m. all tables, counters, and bars shall be immediately cleared of all glasses, bottles, and containers of alcoholic beverages; and, there shall be no drink consumption permitted after 11:30 p.m. However, notwithstanding the foregoing, on New Year’s Eve “last call” may be at 12 a.m.; at 1 a.m. all tables, counters, and bars shall be immediately cleared of all glasses, bottles, and containers of alcoholic beverages; and, there shall be no drink consumption permitted after 1 a.m.
4. Television use is permitted in function rooms and/or at functions.
5. The Board may require a police detail for a one-day license.